

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CRYSTAL SEAMAN,

Plaintiff,

Vs

FOOD GIANT SUPERMARKETS,

INC.,

Defendant.

) **ORIGINAL**

)

)

CASE NO.:

)

2:05-CV-00414-T

)

)

The deposition of ROBERT SEAMAN taken pursuant to the Alabama Rules of Civil Procedure before Anna S. Padgett, Court Reporter and Notary Public, State at Large, at the Law Office of Charles W. Blakeney, 201 North Commerce Street, Geneva, Alabama on the 19th day of July, 2005, commencing at approximately 12:00 a.m.

1 holding on to it, it just did that with her.

2 Q The back end lifted up?

3 A Right.

4 Q Did it hit her at any point, the back
5 end of the buggy?

6 A Not that I know of, no.

7 Q And you say she came on to the car. I
8 guess she went around to the back of the car?

9 A The back of the truck -- pickup truck.

10 Q And unloaded the groceries?

11 A Uh-huh.

12 Q Okay. And she put the groceries in the
13 back of the truck?

14 A Right.

15 Q Okay. And what did she tell you when
16 she got in the truck?

17 A That she had hurt her arm when she hit
18 that hole.

19 Q And after she got back into the car
20 what did y'all do next?

21 A We headed home.

22 Q Okay. Did you ever go look at the hole
23 after the accident?

24 A Yes, I did. A matter of fact it was
25 about a week later, I went back to the store

1 and the hole was still there. And it really
2 frustrated me because we had done called them
3 and let them know about the hole.

4 Q Was that the first time you looked at
5 the hole?

6 A Yes. I believe most of the time they
7 had it covered with a carpet or something of
8 that nature.

9 Q And you said that was about a week
10 after the accident when you first looked at
11 the hole?

12 A Yes, sir.

13

14 (Whereupon, Defendant's Exhibit
15 Number 2 was marked for
16 identification and same is
17 attached hereto.)

18

19 Q I am going to mark this as Defendant's
20 Exhibit 2. And it's the same picture I
21 showed your wife a little while ago. When
22 you went back a week later, where was the
23 hole? I'm going to show you -- this is
24 coming out of the store.

25 A It would have been on the right side.

1 Q The right side?

2 A Yes, sir, going into the store -- going
3 up to the store it would have been on the
4 right. Coming out of the store it would have
5 been on the left.

6 Q Coming out of the store it would have
7 been on the left?

8 A Yes, sir.

9 Q How far over to the left?

10 A It was right there by the doorway.
11 Pretty much where the door would stop
12 opening, it was right in line with that.

13 Q All right. Was your wife with you at
14 the time that you went back out there?

15 A Yes.

16 Q And she showed it was on the left side
17 as you were coming out of the store?

18 A Uh-huh.

19 Q Okay. And did you see it in that
20 picture anywhere?

21 A That hole is familiar right there. It
22 looks familiar to me right there.

23 Q This one that's at the top part of the
24 ramp?

25 A Right. Because it was where the

1 concrete and the asphalt met. I remember
2 that.

3 Q Okay. Well, take a closer look. Now,
4 the concrete -- you mean, the sidewalk and
5 the ramp where it met or where the --

6 A Uh-huh. Right.

7 Q And your wife was with you when you
8 were looking at this?

9 A Yes. I want say she was.

10 Q Did you take any pictures while you
11 were there?

12 A I was wanting too, but I didn't have
13 the camera. And then when I got back home to
14 get it didn't have film, so I got messed up
15 on that all the way around.

16 Q Okay. When you went back out there --
17 was there a mat over it when you went?

18 A Not the second time that I remember,
19 no. It was still open.

20 Q Okay. And what did y'all do after
21 y'all left on the day of the accident?

22 A Well, we went home like I said and got
23 the groceries out. And I wobbled in there
24 and sat on the chair -- recliner and propped
25 my leg back up because my swelling was

1 starting to get bad again. And pretty much
2 that was about it other than I believe she
3 put ice on her arm.

4 Q Okay. And what happened on the next
5 day after the accident?

6 A She kept complaining about the arm
7 bothering her. And I told her, I said, You
8 might need to call down to the store and talk
9 to the manager down there and let them know
10 what's happened while we're still on this
11 24-hour basis and see what they recommend
12 before we do anything on our own. So she
13 called down there and spoke to the manager.
14 What all was said on the phone, I don't know.
15 The next thing I know, she said, Baby, they
16 told me I could go to the doctor up there in
17 town -- in Florala. And I said, okay. Well
18 let's get you up there.

19 Q Okay. Had you ever shopped at this
20 store before?

21 A Yes, sir.

22 Q Have you ever noticed any problem with
23 the ramp prior to this accident?

24 A No, I didn't.

25 Q Okay. You didn't go in the store on

1 the day of the accident?

2 A No, I stayed outside.

3 Q You couldn't walk at the time?

4 A Right. Well, I could move but it was
5 barely.

6 Q Right.

7 A It's hard to describe. I had to use a
8 hand crutch and all of that.

9 Q Do you know of any other accidents that
10 have occurred at that store?

11 A No.

12 Q All right. Have you talked to any
13 employees at the store since the accident or
14 before?

15 A No.

16 Q Have you spoken with anybody else about
17 this accident besides your attorneys or your
18 wife?

19 A No.

20 Q Okay. And since the accident, I guess,
21 describe to me what activities your wife can
22 no longer participate in or any changes that
23 you've seen.

24 A Okay. That's pretty easy. I have to
25 take the clothes out for her. I have to pull

1 the garbage up. When it comes to heavy pots
2 and pans on the stove, I have to help her
3 with that.

4 Q I'm sorry. What was the first one you
5 said?

6 A Clothes -- taking clothes, yeah.

7 Q Taking clothes where?

8 A Out to the line to hang up, trying to
9 save energy. The fuel is eating us up.

10 Q I imagine so in your profession.

11 A And like I said, hot stuff on the
12 stove, smoky stuff, getting stuff out of the
13 oven for her because she is real tender now
14 to drop stuff.

15 Q What kind of stuff have you seen her
16 drop?

17 A I seen her drop mayonnaise one time at
18 the Piggly Wiggly in Opp, glasses of tea, you
19 know, Sprite, stuff like that she would drop.

20 Q What other activities cause her to be
21 sloppy? And let me -- I'll tell you the same
22 way I told her. I need to know everything --
23 if this case went to trial and you were going
24 to tell the jury how her accident has
25 affected her or you.

1 A Certain ways I can't grab her now. If
2 I do she'll let me know right quick.

3 Q On the arm?

4 A Yes. If I go to hug her and she ain't
5 got her arms up, I'll -- you know.

6 Q Okay.

7 A Certain ways at night that I sleep with
8 her. She has to stay over on her left side
9 because she can't lay on her right, so when I
10 go to hold her at nights sometimes I'll wake
11 her up because I grabbed her arm in the
12 sleep, you know. Probably numerous things,
13 but sitting here trying to think of them all
14 right now -- of course, anything -- bringing
15 groceries from the store in and out, I have
16 to help her with anything heavy. I mean, I
17 give her the light stuff, but I tote the
18 heavy stuff.

19 Q All right. Prior to the accident would
20 you help her around the house?

21 A Oh, yeah. Between that and our two
22 younguns they help too, so.

23 Q And I don't want to pry too much but we
24 got into -- with your wife we got into sexual
25 relations. Are y'all still able to have sex?

1 A Yeah.

2 Q All right. Just anything else that you
3 can think of that you would tell a jury,
4 that's what I'm asking about. So if there is
5 anything else --

6 A Besides the complaining, I mean, I put
7 up with that.

8 Q Yeah. Now, come on, she complained
9 before the accident, didn't she?

10 A Yeah, about things I did though. Not
11 what she was doing. Brushing her hair -- I
12 have to brush her hair sometimes for her.

13 Q What complaints does she have in
14 regards to her arm? How has she related
15 those to you about how it hurts?

16 A To touch -- she don't even like for me
17 to touch it. Even though it's cold and
18 she'll ask me to put my hand on it and she
19 will still pull away from me when I touch
20 her. Just a throb. Sometimes it's sensation
21 she gets running up and down her arm, you
22 know.

23 Q Is there any area of the arm that she
24 relates hurts more than the other part?

25 A Well, she talks about her two fingers

1 and her hand and up through her wrist like.
2 And then, of course, in the elbow.

3 Q Okay. Are there any hobbies y'all had
4 prior to the accident that y'all no longer
5 participate together in?

6 A Yeah. We try to fish, but hunting and
7 fishing was our two most popular things. But
8 hunting, last year she didn't do much at all
9 with me.

10 Q Like did she do any hunting?

11 A No. She went riding with me. Well,
12 she went and sat in the woods with me, but I
13 mean as far as me putting her out on the
14 stand and all to hunt, no.

15 Q Prior to the accident was she an active
16 participant in the hunting?

17 A Yeah. I could pretty well put her
18 somewhere and leave her.

19 Q Did she kill anything?

20 A No, I don't think she never did.

21 Q And you say fishing as well?

22 A Yeah.

23 Q Is she able to fish still with you?

24 A I have to cast it for her and she can
25 sit there with it, you know.

1 Q Does she reel fish any since the
2 accident?

3 A No.

4 Q Did she reel fish any before the
5 accident?

6 A Yeah. Always the bigger one too.

7 Q And you're from Florida?

8 A Yes, sir.

9 Q Where in Florida?

10 A Valkaria. (Phonetics.)

11 Q Okay. How long have you lived in this
12 area?

13 A About four-and-a-half years now.

14 Q All right. Y'all live in Opp right
15 now?

16 A Right.

17 Q And I think your wife said she had a
18 history of depression and anxiety?

19 A Uh-huh.

20 Q And how long have y'all been married?

21 A Right at 17 years.

22 Q 17 years. Okay. And she told me that
23 -- related to this accident, she started
24 taking Xanax for anxiety?

25 A Yeah.

1 Q I guess anxiety slash depression. And
2 she told me in the early '90s she was also on
3 -- I think it was a couple of different
4 medications she was on for depression. Do
5 you recall that?

6 A Yeah, vaguely. I couldn't tell you
7 what it was or -- you know, how much she took
8 and all of that, I couldn't tell you. That
9 was a long time ago.

10 Q Okay. Do you know what that was
11 related to with the depression at that point
12 in time -- early '90s?

13 A I think it was just the crisis of me
14 losing my father's home and his stuff.

15 Q Okay. And since the early '90s, but
16 before this accident, was there any other
17 time she had any episodes of depression or
18 anxiety?

19 A No. Not that I know of.

20 Q Okay. And when was the first time, I
21 guess, that the depression and anxiety came
22 back up after this accident?

23 A Basically worried about the schooling.
24 She was real worried and concerned, when she
25 did get the job, would she be able to perform

1 on it. And what to tell on the applications,
2 you know.

3 Q What do you mean to tell on the
4 applications?

5 A Well, you know, some applications you
6 have where they ask about prior injuries and
7 so forth on jobs and stuff like that. And
8 she just didn't know -- you know, all of
9 these things were going through her mind and
10 she was trying to learn her books, too.

11 Q Was there anything else in her life, at
12 that point in time, that could have caused
13 depression and anxiety besides the injury?

14 A Besides my hardship and not being able
15 to work at that time.

16 Q You weren't able to work at that time?

17 A No.

18 Q Okay. Why? Because of your surgery?

19 A Right.

20 Q Were you receiving disability?

21 A Workman's comp, right.

22 Q But it was not as much as you were
23 receiving before?

24 A No. Oh, no.

25 Q And did that cause an economic strain,

1 I guess, with the family?

2 A Yes. Yes, it did. The kids needed
3 things and we didn't have the means to do it.

4 Q Anything else you can think of about
5 that time?

6 A No, sir.

7 Q I may have asked you this already. Did
8 y'all talk about this accident with any other
9 friends or family?

10 A No.

11 Q And you haven't talked to any store
12 employees or managers?

13 A No, sir.

14 Q Okay. Do you know of any other
15 accidents your wife has been involved in
16 either before or after?

17 A None that I have seen personally, no.

18 Q Okay.

19 A Well, there was one. I think she broke
20 her foot picking up my payroll one time -- on
21 my boss's steps, of all places.

22 Q Y'all didn't file a claim?

23 A No.

24 Q I'm probably about done. And how did
25 you know that the hole was on the left

1 side -- the subject hole that y'all are
2 referring to was on the left side of the
3 ramp?

4 A Coming out of the store, yes, sir.

5 Q And that's coming out of the store down
6 the ramp it was on the left side?

7 A Yes, sir.

8 Q And how did you know it was there?

9 A When she run into it, that's when it
10 brought it to our attention.

11 Q Okay. I'm talking about on the date
12 you went back out there. The first time you
13 went back out there to look at it, how did
14 you know it was on the bottom left side?

15 A I saw it with my own eyes.

16 Q When it happened the first time?

17 A Yeah. And I saw it when I went back
18 the second time because I said, Wow, they
19 ain't even fixed the hole yet.

20 Q Okay. Can you describe the hole for
21 me?

22 A It was just where you could tell where
23 the asphalt and the concrete mixture there or
24 something just didn't bond. And water got
25 into it and started washing it away and

1 Q I guess, if you were watching where
2 you're walking on the way in, could you have
3 seen it? Was it that visible?

4 A On the way in but not on the way out --
5 not pushing a buggy.

6 Q Are you saying you couldn't see it
7 because you were pushing a buggy?

8 A Right. It would have you blinded from
9 it.

10 Q Right. But on the way in you could see
11 it, I guess, if you were looking at the
12 ground walking in?

13 A If you was paying attention, yes.

14 Q And you had never seen it before?

15 A That I can recall, no.

16 Q And you don't know how it got there?

17 A No, sir.

18 Q Okay. Or how long it had been there?

19 A No, sir.

20 Q How long after this accident did you go
21 back to work, or after this accident did you
22 go back to work?

23 A Well, it was a while back. I guess it
24 was about --

25 Q This happened on April of 2003.